IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR. JUSTICE S. ANANDA REDDY
WRIT PETITION NO : 9842 of 2004

Between:
V.Seshagiri Rao, S/o.Late Venkata Subbaiah,
R/o.1st lane Rajender Nager, Guntur.

PETITIONER

AND

1 The Chief Engineer, Panchayat Raj & Rural Development, Hyderabad.
2. The superintending Engineer, Panchayat Raj Circle, Guntur.

.RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ order or direction more in the nature of writ of Mandamus declaring the action of the 2nd respondent in with holding the seivarage fee on ordinary earth from the work bills of the petitioner inrespect of agreement No.21/2003-2004 dt.16-12-2003 entered with the 2nd respondent as illegal arbitrary without authority of law and consequently direct the 2nd respondent not to recovery the seiverage fee on ordinary earth from the bills of petitioner.

For the Petitioner:MR.A.RAJENDRA BABU

For the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT.

The Court Made the Following :

O R D E R

This writ petition is filed by the petitioner aggrieved by the action of the respondents in proposing to collect seigniorage fee on the ordinary earth

utilized by the petitioner for executing the contract work which was entrusted by the respondents. According to the petitioner there is no provision under the terms of the agreement, which provides for recovery of any seigniorage fee from the petitioner. In the absence of any specific clause providing for recovery of seigniorage fee on the ordinary earth, the respondents are not entitled to recover the same.

2. At the time of hearing, the Learned Counsel represented that the similar issue was considered by this court in W.P.No.8310 of 2004, dated 29-04-2004 in the case of Mrs. B. V. Subba Reddy Constructions Vs. Chief Engineer, R & B, wherein this court held as under:

> "The grievance of the petitioners is that though there is no provision for collection of seigniorage fee on ordinary earth and such seigniorage fee was also not taken into account while estimating the cost of the work, the respondents are proposing to deduct the same which is illegal apart from violation of principles of natural justice as well as against the terms of the contracts.
>
> If the terms of the agreements does not provide for collection of seigniorage fee on ordinary earth, the respondents are not entitled to deduct any amount from out of the bills of the petitioners on that count. On the other hand, if it is provided in the terms of the agreements and if the same is also taken into account while estimating the cost of the work, the respondents are entitled to deduct the same. Therefore prayed for passing of similar order."

3. Heard the Learned Counsel for the petitioner and the Standing Counsel for the Government.

4. In view of the above order passed by this court, the writ petition is disposed of on the same lines directing the respondents not to collect the seigniorage fee unless it was specifically provided in the agreement for such recovery.

Sd/-xxxxxx,

Assistant Registrar

//true copy//

Section Officer

To

1 . The Chief E ngineer, Panchayat Raj and Rural Development, Hyderabad.

2. The Superintending Engineer, Panchayat Raj Circle, Guntur.

3. CCs to the Government Pleader for P. Raj.(OUT)

4. Two CD Copies.